

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LEXINGTON INSURANCE COMPANY as subrogee of
BP/CG Center I, LLC, BP/CG II, LLC, Citigroup Center
Condominium, and all other named insureds under policy
number 8753820,

Plaintiffs,

Case No.: 08 CV 6563
(GBD (THK))

-against-

**ANSWER TO
CROSS-CLAIMS**

LOCHINVAR CORPORATION, SOUTH ERIE
PRODUCTION COMPANY doing business as SEPCO-
ERIE and S. DIGIACOMO & SON, INC.,

-----X
Defendant, **S. DIGIACOMO & SON, INC.**, by its attorneys, FRENCH & RAFTER,

LLP, as and for its Answer to Defendant **LOCHINVAR CORPORATION'S** Cross-Claims, alleges
as follows:

AS AND FOR A RESPONSE TO THE FIRST CROSS-CLAIM

1. Denies the allegations contained in paragraphs designated "30", and "31".

AS AND FOR A RESPONSE TO THE SECOND CROSS-CLAIM

2. Denies the allegations contained in paragraphs designated "32", "33", and "34".

WHEREFORE, Defendant **S. DiGiacomo & Son, Inc.** demands judgment dismissing the
Cross-Claims of Defendant **Lochinvar Corporation** in this action, together with the costs and
disbursements of this action.

Dated: New York, New York
August 27, 2008

Yours, etc.,

FRENCH & RAFTER, LLP

BY:



Beth Rex (BR 2025)

Attorneys for Defendant

S. DiGiacomo & Son, Inc.

29 Broadway, 27th Floor

New York, New York 10006

(212) 797-3544

File No.: 8400.1152

TO:

David Scott Smith, Esq.

Gwertzman Lefkowitz Burman Smith & Marcus

Attorneys for Plaintiffs

80 Broad Street – 16th Floor

New York, New York 10004

(212) 968-1001

Roland Theodoor Koke, Esq.

Rende, Ryan & Downes, LLP

Attorneys for Defendants

LOCHINVAR CORPORATION,

202 Mamaroneck Avenue

White Plains, New York 10601

(914) 681-0444

SOUTH ERIE PRODUCTION COMPANY

d/b/a SEPSCO-ERIE

1221 Robinson Road

Erie, PA 16509

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

SANDY PEÑA, being duly sworn, deposes and says:


That I am not a party to the within action, am over 18 years of age and reside in Queens County, New York.

That on August 27, 2008, deponent served the within **ANSWER TO CROSS-CLAIMS** upon the attorneys and parties listed below by United States prepaid mail by placing same in a mailbox in the State of New York to:

David Scott Smith, Esq.
Gwertzman Lefkowitz Burman
Smith & Marcus
Attorneys for Plaintiffs
80 Broad Street – 16th Floor
New York, New York 10004
(212) 968-1001

SOUTH ERIE PRODUCTION COMPANY
d/b/a SEPSCO-ERIE
1221 Robinson Road
Erie, PA 16509

Roland Theodoor Koke, Esq.
Rende, Ryan & Downes, LLP
Attorneys for Defendants
LOCHINVAR CORPORATION,
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444



SANDY PEÑA

Sworn to before me this
27th day of August, 2008



NOTARY PUBLIC

BETH REX
Notary Public, State of New York
NO. 31-4928883
Qualified in New York County
Commission Expires April 4, 20 10

Case No.: 08 CV 6563

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LEXINGTON INSURANCE COMPANY as subrogee of BP/CG Center I, LLC,
BP/CG II, LLC, Citigroup Center Condominium, and all other named insureds under
policy number 8753820,

Plaintiffs,

-against-

LOCHINVAR CORPORATION, SOUTH ERIE PRODUCTION COMPANY doing
business as SEPCO-ERIE and S. DIGIACOMO & SON, INC.,

ANSWER TO CROSS-CLAIMS

FRENCH & RAFTER, LLP

Attorneys for Defendant

S. DiGiacomo & Son, Inc.

**29 BROADWAY
NEW YORK, NEW YORK 10006
TELEPHONE (212) 797-3544**